

**REMARKS**

This Amendment addresses the issues outstanding from the final Office Action dated December 9, 2008. Applicant respectfully requests favorable reconsideration of this application, as amended.

Claims 19-53, 70, 71, and 79 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Causey et al. (USP 6,641,533) in view of Gilcher (USP 6,113,554). Claims 19-53, 70-75, and 78-80 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McGrath (USP 4,216,462) in view of Markham (USP 5,401,394).

While Applicant believes that the claims as previously presented distinguish patentably from the applied references, independent Claims 19, 37, and 70 have been canceled without prejudice or disclaimer in favor of new Claims 81, 90, and 97, respectively, in an effort to expedite favorable disposition of the present application. It is apparent that the applied references fail to teach or suggest the features of the new independent claims.

In particular, new Claim 81 recites, *inter alia*, that a treatment unit is configured to administer a medical treatment to a patient and a one-way communication mechanism operatively connects the treatment unit to a monitor unit such that the monitor unit is prevented from sending signals to the treatment unit at all times during operation of the medical treatment device.

As discussed in the previous Amendment (the remarks of which are hereby incorporated by reference), Causey discloses a bi-directional communication link, in which signals are able to flow to and from the alleged treatment unit. Causey does not teach a one-way communication mechanism, in which signals can only flow in one direction. Even assuming *arguendo* that Causey is capable of operating in a one-way

mode as alleged by the Office Action, Causey's communication link does not prevent a monitor unit from sending signals to a treatment unit at all times during operation of his device. Rather, Causey makes it quite clear that the medical device module 200 can be used to program and obtain data from infusion pump 400 (Causey, col. 23, lines 28-30) and that medical device module 200 downloads data and receives updated programming or instructions from the computer (Causey, col. 23, lines 42-47 and 52-56). Thus, signals are not prevented from being sent to Causey's alleged treatment unit (i.e., infusion pump 400). Accordingly, Causey cannot teach or suggest the recited feature. The secondary reference to Gilcher also does not discuss a one-way communication mechanism and thus fails to remedy the above-noted deficiencies of Causey.

Regarding the combination of McGrath and Markham, neither reference teaches or suggests a treatment unit which is configured to administer a medical treatment. Rather, McGrath relates to a monitoring system for patients in a hospital. Bedside monitoring stations 12 are connected to a central monitoring station 14 to allow centralized monitoring of patient vital signs, including ECG, blood pressure, heart rate, and temperature (McGrath, col. 4, lines 2-13). There is no teaching in McGrath of administering a treatment to a patient, nor does the final Office Action indicate where such features are found in McGrath. Markham relates to monitoring the performance of a UV light bulb and thus is also deficient with regard to the claimed treatment unit.

Moreover, McGrath clearly states that bedside monitoring stations 12 transmit and receive information from central monitoring station 14 (McGrath, col. 4, lines 2-5) and that electrical isolation of the respective stations is achieved through optical isolators (McGrath, col. 5, lines 51-53). Thus, one of ordinary skill in the art would not replace McGrath's two-way optical isolator 46 with a one-way opto-isolator as suggested by the

final Office Action (whether or not taught by Markham), as this would render McGrath unsuitable for its stated purpose of bi-directional communication. Furthermore, one of ordinary skill would not have been motivated to modify McGrath to have Markham's opto-isolator since McGrath already achieves electrical isolation via isolator 46. Accordingly, the proposed combination is untenable.

New independent Claim 90 recites, *inter alia*, that a treatment unit is configured to administer a medical treatment to a patient and that a one-way communication mechanism connects the treatment unit to the monitor unit such that signals from the monitor unit are **permanently prevented** from being received by the treatment unit.

For reasons similar to those set forth above with regard to Claim 81, Claim 90 also distinguishes patentably from the applied references.

New independent Claim 97 recites, *inter alia*, that a treatment module is configured to administer a medical treatment to a patient and that the monitoring module is operatively isolated from the treatment module such that signals from the monitoring module are **physically prevented** from being transmitted to the treatment module.

As discussed above, Causey teaches a bi-directional communication link in which signals are capable of being transmitted to and from infusion pump 400. The Office Action interprets Causey's Fig. 10 to suggest one-way communication, but this interpretation is unsupported elsewhere in the disclosure of Causey. Even assuming *arguendo* that this interpretation of Causey would be reasonable, there is no teaching or suggestion in Causey that signals from the monitoring module are physically prevented from being transmitted to infusion pump 400. Instead, the particular one-way mode of operation alleged to be illustrated in Fig. 10 of Causey would not physically prevent signals from being transmitted since the connection would still be capable of transmitting

signals to the treatment module. Accordingly, Causey cannot teach or suggest the claimed medical treatment device. Gilcher does not discuss the aforementioned features and thus fails to remedy the above-noted deficiencies of Causey.

With respect to the proposed combination of McGrath and Markham, Claim 97 distinguishes patentably from these references for reasons similar to those presented above with regard to Claim 81.

Turning to the dependent claims, Claims 20-36, 38-53, and 71-80 have been canceled without prejudice or disclaimer in favor of Claims 82-89, 91-96, and 98-111.

Applicant notes that Claims 76 and 77 were previously withdrawn as being drawn to a non-elected invention that is independent and distinct from the invention originally claimed. The Office Action states that these claims “are drawn to an RF transmitter without a corresponding receiver to produce a one-way signal” whereas previous claims “were drawn to a system using an opto-isolator.” Insofar as new dependent Claims 103-104, which correspond to previously presented Claims 76-77, may be subject to withdrawal on the same grounds, the withdrawal is respectfully traversed.

The species of Fig. 1, which encompasses previously presented independent Claims 19 and 37 drawn to a medical treatment device with a one-way communication mechanism, was previously elected. The invention reflected in the language of Claims 19 and 37 clearly encompasses the recited structure in withdrawn Claims 76-77 (now recited in Claims 103-104). Accordingly, these claims are believed to be readable on the elected species. Additionally, 37 C.F.R. § 1.145 states that restricted claims must be distinct from and independent of the invention previously claimed. However, Claims 76-77 depend from Claim 70, which was examined in the final Office Action and thus not independent of and distinct from the invention originally claimed. As the invention of

Claims 76-77 cannot be independent of the invention of Claim 70 by virtue of dependency thereon, these claims are also not independent of and distinct from the invention originally claimed. Thus, Claims 76-77 should have been examined in the final Office Action. For at least these reasons, Applicant respectfully requests that Claims 81-111 be examined in the next Office Action.

Claims 82-89, 91-96, and 98-111, which depend from Claims 81, 90, and 97, are also believed to be patentable for at least the reasons discussed above with respect to Claims 81, 90, and 97, as well as due to the additional subject matter contained therein.

Accordingly, the present application is in condition for allowance, and an early Notice of Allowance is respectfully requested. Should any further action be necessary to place this application in better form for allowance, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4342-14521US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

Date: March 9, 2009

Miles & Stockbridge, P.C.  
1751 Pinnacle Drive  
Suite 500  
McLean, Virginia 22102-3833  
(703) 903-9000

By: /Frederick F. Rosenberger/

Mark A. Catan  
Reg. No. 38,720

Frederick F. Rosenberger  
Reg. No. 61,404